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December 22, 2004

Mr. William Sessions
Country of Origin Labeling Program
Room 2092-S
Agricultural Marketing Service,
USDA STOP 0249
1400 Independence Avenue SW
Washington, DC 20250-0249

Re: Docket No. LS-03-04

Dear Mr. Sessions,

I am writing this letter to address the issue of "farm raised" vs. "wild" as it pertains to shellfish under the interim Country of Origin Labeling rule. Taylor Shellfish Company last year produced 8 million shucked oysters, 13 million live oysters, 5 million "top-off" frozen oysters, 3.7 million pounds of Manila clams, 1 million pounds of mussels and 300,000 pounds of geoduck clams. All of these products were intensively farmed on tidelands and/or bedlands we own or lease. The seed for these products originated in our hatcheries, was reared in our nurseries and outplanted using various methods on tidelands and/or bedlands we own or lease. The fact that our shellfish are sustainably farmed is crucial to our marketing. It is very important to our company that the definitions used in the final rule do not exclude any of this production from the "farmed" category.

I participated in the conference call with you and other members of the shellfish industry from around the country last month. Several of us before the call felt we had a pretty good understanding of farmed vs wild and didn't think we had an issue with all of our products being farmed. After the call it was clear that no one, including USDA had a truly clear picture of what farmed or wild shellfish was.

The confusion in my opinion stems from the language in § 60.106 requiring the shellfish beds be subject to production enhancements, with the three non-exclusive examples (providing protection from predators, the addition of artificial structures, or providing nutrients). Lacking a complete list of production enhancements in the final rule along with guidance on time periods required to be subjected to the production enhancement to qualify as farmed, USDA will be plagued forever by on-going inquiries from confused farmers and retailers.

We would recommend deleting the production enhancements language from the final rule to alleviate this confusion. A common thread that exists between all farmed shellfish

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(west, east and gulf coasts) is that it is produced in "controlled environments" from which the growers have exclusive rights to the farmed shellfish. The land the farming is occurring on qualifies as "controlled" in that it is generally either owned or leased.

To address these above concerns we would recommend § 60.106 be amended as follows:

§ 60.106 Farm-raised fish. *Farm-raised fish* means fish or shellfish that have been harvested in controlled environments, including ocean-ranched (e.g., penned) fish and including shellfish harvested from leased, owned, controlled or managed beds ~~that have been subjected to production enhancements such as providing protection from predators, the addition of artificial structures, or providing nutrients;~~ and fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.


To further reduce confusion over farmed vs wild shellfish we would recommend the following amendment to § 60.133.

§ 60.133 Wild fish and shellfish. Wild fish and shellfish means naturally-born or hatchery-originated fish or shellfish released in the wild, and caught, taken, or harvested from non-controlled waters or beds as mature animals for processing and/or sale for consumption; and fillets, steaks, nuggets, and any other flesh from a wild fish or shellfish.

This change would address a farming practice in the northwest and other parts of the country where seed oysters are collected from public beds and planted on leased, owned, controlled or managed beds to grow to maturity. As § 60.133 currently reads there could be confusion in that the seed collected from these public beds originated from larvae that were "released" by their parents into the wild before settling on the public beds from which they are collected and planted on controlled beds. The proposed change clarifies only mature animals (not seed) caught, taken or harvested from non-controlled waters would be considered wild.

Thank you for considering these comments.

Sincerely,



Bill Dewey
Public Affairs Manager